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| SERIAL NUMBER | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| 08/335,981 | 11/08/94 | FREEMAN | H 3301402 |
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FORM 1/0117

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EXAMINER

ART UNIT

PAPER NUMBER

3301

01/17/96

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 11/29/95 ☒ This action is made final

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 7-342 are pending in the application.

Of the above, claims — are withdrawn from consideration.

2. ☐ Claims — have been cancelled.

3. ☒ Claims 34-42 are allowed.

4. ☒ Claims 1-33 are rejected.

5. ☐ Claims — are objected to.

6. ☐ Claims — are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on —. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on —, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed —, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. —; filed on —.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, 12, 15, 19-20 and 23-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Buese '159, as set forth in the previous office action, paragraph no. 2, Paper No. 8.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 6-8, 10-11, 13-14, 16-18, 21-22, 25-27 and 29-30 are rejected under 35 U.S.C. § 103 as being unpatentable over Buese '159 in view of Gasper, as set forth in the previous office action, paragraph no. 5, Paper No. 8.

Claim 28 is rejected under 35 U.S.C. § 103 as being unpatentable over the references as applied to claim 25 above, and

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further in view of Parker, as set forth in the previous office action, paragraph no. 7, Paper No. 8.

Claims 31-33 are rejected under 35 U.S.C. § 103 as being unpatentable over Buese '159 in view of Paxit, as set forth in the previous office action, paragraph no. 9, Paper No. 8.

Applicant's arguments filed November 29, 1995 have been fully considered but they are not deemed to be persuasive.

Applicant argues that the dye in Buese is mixed with the binder and not on the tape. Although the dye is mixed with the binder it is still impregnated into the tape. Thus, the dye is disposed on the tape. Applicant argues that Casper does not disclose an open mesh fabric that has two coloring agents. However, Casper teaches in Col. 7, line 51 to Col. 8, line 11, an open mesh comprising at least two coloring agents. Applicant argues that Parker does not provide the teaching missing from Casper or Buese. However, Parker was used as a modifier to provide cotton or synthetic fibers for the bandage. Applicant argues that Paxit teaching is nonanalogous to the orthopedic cast art. However, Paxit clearly teaches a polyester fabric that may be printed with a pattern by depositing a dye on a fabric.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED

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UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Claims 34-42 are allowable over the prior art of record.

Any inquiry concerning this communication should be directed to Michael Brown at telephone number (703) 308-2682.

M. Brown
7 January 1996



MICHAEL A. BROWN
PRIMARY EXAMINER
GROUP 3300